IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4238 OF 2000

Shri Arun Shivram Patil
Aged 28 years, Occ. Nil
R/o Arunodaya, Azad Road,
Gadhinglaj, Dist. Kolhapur ..Petitioner

V/s.

1. The State of Maharashtra
   through the Secretary, General
   Administration Department,
   Mantralaya, Mumbai-400 032.

2. The Secretary
   Agriculture & Animal Husbandry
   Dairy and Fisheries Department,
   Mantralaya, Mumbai-400 032

3. The Special Executive Officer
   Services Recruitment, (formerly
   The Maharashtra Subordinate
   Services Selection Board,
   Mumbai)
   Behind J.J.School of Arts
   Badruddin Tayyabji Marg,
   Near CST, Mumbai-400 001. ..Respondents

Mr.N.Y.Bandiwadekar for the petitioner.

Mr.R.M.Patne, AGP for Respondent Nos.1 to 3.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 12.4.2005.

Oral Judgment :- (Per : R.M.Lodha,J)

. By means of this Writ petition, the petitioner seeks direction to the respondents to hold the oral interview and complete the selection process of the

petitioner in respect of selection to the post of Livestock Supervisor that took place pursuant to the advertisement dated 25.11.1996.

2. On 25.11.1996 the Maharashtra Subordinate Selection board Mumbai issued an advertisement calling appointment for candidates in various posts including the post of Livestock Supervisors. The requisite qualification for Livestock Supervisor was S.S.C. & Diploma. According to the petitioner the said advertisement notified total 175 posts of Livestock Supervisor. Out of which 121 were for male candidates and 54 were for female candidates. There were 37 posts for male and 26 for female candidates for open category candidates. The balance 112 posts were reserved for backward class candidates and also the handicapped candidates.

3. Written examination was conducted on 30.11.1997. It appears that the selection board, thereafter, invited the reserved category candidates for oral interview and succesful candidates from the reserved category were given appointments but from the open category no oral interview was held.

4. The petitioner awaited for years together for call for interview. For almost after 3 years he appeared in the written examination, the petitioner approached this Court and filed the present Writ

petition.

5. The respondents are opposing this Writ petition and quite a few affidavits have been filed by them.

6. In sum and substance, the respondents' case in reply to the petitioner's Writ petition is that as per the Government Resolution dated 29.3.1997 the Government changed the previous 200 point roster to 100 point roster. By further Government Resolution dated 18.10.1997 the revised requisition was changed as the percentage for open category candidates exceeded the prescribed percentage. As a matter of fact 63 posts of Livestock Supervisor as notified in the advertisement were not vacant and for revision thereof the State Selection Board sent letter on 29.7.1998. According to the respondents, all open category posts of Livestock Supervisor were already filled, rather in excess and therefore, no further steps were taken by the Selection board in so far as open category candidates were concerned, after the written examination was held on 30.11.1997. That pursuant to such advertisement the petitioner appeared in written examination, it cannot be said that any legal right was created in favour of the petitioner. As a matter of law, no candidate can claim right of appointment based on select list if that select list is done away with and the employer decides not to make any appointment.

7. In our considered view, no legal right came to be created in favour of the petitioner merely because he appeared in the written examination. The grievance raised by the petitioner is wholly misconceived and misplaced. There is valid justification put forth by the respondents in not going for the selection of the open category candidates because all posts available in the cadre of Livestock Supervisor in open category were already filled prior to the advertisement and once this mistake came to their notice, further exercise for selection to the post of Livestock Supervisor from the open category was put off. Since there were vacancies in the reserved category, the selection process went ahead for such candidates and the appointments were made according to the merit.

8. The Writ petition, therefore, has no substance and is dismissed with no order as to costs.

(R.M.LODHA,J)

(R.S.MOHITE,J)